



DEPARTMENT OF HEALTH & HUMAN SERVICES

AUG 10 2012

Food and Drug Administration  
Rockville MD 20857

Re: POTIGA  
Docket No. FDA-2012-E-0163

The Honorable David J. Kappos  
Under Secretary of Commerce for Intellectual Property  
Director of the United States Patent and Trademark Office  
Mail Stop Hatch-Waxman PTE  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Director Kappos:

This is concerning the application for patent term extension for U.S. Patent No. 6,538,151 filed by Valeant Pharmaceuticals North America, under 35 U.S.C. 156. The human drug product claimed by the patent is POTIGA (ezogabine), which was assigned new drug application (NDA) No. 22-345.

A review of the Food and Drug Administration's official records indicates that this product was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. 156(a)(4). Our records also indicate that it represents the first permitted commercial marketing or use of the product, as defined under 35 U.S.C. 156(f)(1).

The NDA was approved on June 10, 2011, which makes the submission of the patent term extension application on August 8, 2011, timely within the meaning of 35 U.S.C. 156(d)(1).

Should you conclude that the subject patent is eligible for patent term extension, please advise us accordingly. As required by 35 U.S.C. 156(d)(2)(A) we will then determine the applicable regulatory review period, publish the determination in the *Federal Register*, and notify you of our determination.

Please let me know if we can be of further assistance.

Sincerely yours,

Jane A. Axelrad  
Associate Director for Policy  
Center for Drug Evaluation and Research

cc: David A. Gay  
Jones Day  
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New York, NY 10017